

To: Commission
From: Staff
Re: Handicapped parking
Date: March 9, 2009

MEMORANDUM

Staff was recently contacted by a concerned citizen regarding a problem relating to handicapped parking in New Jersey.

N.J.S.A. 39:4-204 to 39:4-207.9 address the process of obtaining a handicapped parking placard. *N.J.S.A. 39:4-138o* includes language prohibiting parking in any space on public or private property appropriately marked for vehicles for the physically handicapped pursuant to ...C. 39:4-197.5...C. 52:27D-119 et seq¹...or any other applicable law unless the vehicle is authorized by law to be parked therein and a handicapped person is either the driver or a passenger in that vehicle. State, county or municipal law enforcement officers or parking enforcement authority officers shall enforce the parking restrictions on spaces appropriately marked for vehicles for the physically handicapped on both public and private property.

As the issue was explained in the correspondence received by Staff, [i]n many other US states, as well as in other countries (i.e., Canada, England, Australia), the laws for use of a disabled parking space REQUIRE the disabled person to EXIT the vehicle once parked in that spot, not just be IN the vehicle, as New Jersey law requires. By only requiring that the disabled person be in the vehicle (not exit/enter the vehicle) New Jersey law, in essence, allows - ALLOWS - the disabled person, to whom the parking placard is issued, to sit in the car and eat, sleep, play games, etc., or wait while their able bodied passenger does the running and benefits from the nice close parking spot. This is a huge loophole in New Jersey's law that makes the law deficient in its purpose to protect the spirit and intent of the reserved parking space.

The personal example that was provided to illustrate the problem is Manasquan Inlet, in Point Pleasant, New Jersey. It is a short straight waterway connecting the Manasquan River to the Atlantic Ocean. On one side is a sea wall where many fishermen/ women go to sit and fish. The parking on this side of the inlet is just above/behind the wall and consists of a long straight parking lot with parking spaces on both sides, with two handicapped spaces facing the inlet and two handicapped spots not facing the inlet. Any nice day in the summer, you will ALWAYS find those handicapped spaces filled by occupied cars - people who have the parking placard hanging from the rear view mirror, but who just sit there to take in the views, watch the boats go in and out, etc. Meanwhile, someone like me comes along who wants to fish right there, near the bathrooms, near the steps that go down to the sand in front of the wall - and I am deprived of using the space for what it is intended to be used for, because New Jersey law

¹ The first section cited permits the establishment of restricted parking places for use by those to whom a special vehicle identification card has been issued, the second is the State Uniform Construction Code Act.

only requires the disabled person to be in the vehicle, not that they exit the vehicle, while it is parked there.

The solution that was proposed to deal with this problem is an amendment to the statutory language requiring that the handicapped individual actually exit the vehicle when it is parked in a reserved parking spot, rather than just be the driver or passenger.

States that require the handicapped individual to enter and exit the vehicle, clarifying that the holder of the special permit may not remain in the vehicle while another person who is not disabled or mobility impaired runs an errand, include: Alaska, Colorado, Florida, Illinois, Minnesota, Montana, Nebraska, and Wisconsin.

Since this issue falls within the scope of the Title 39 project, Staff discussed it with the MVC Staff Attorneys who are reviewing that project. The MVC Staff attorneys advised that, since any change to the law to address the issue raised would be substantive, they did not believe that it was appropriate for inclusion in the Title 39 project.

Staff is seeking guidance from the Commission as to whether the language of the current statute should be changed to address the issue raised and, if so, whether the change should be included in the Title 39 project, or should be treated as a small separate project.

If the Commission chooses to modify the language of the current statute, then the pertinent section of *N.J.S.A. 39:4-138o* could be altered to read “or any other applicable law unless:

- (1) the vehicle is authorized by law to be parked therein
- (2) and a handicapped person is either the driver or a passenger in that vehicle and
- (3) the handicapped person exits or enters the vehicle while it is parked in the space.
State, county or municipal law enforcement...”